

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

BYRON A. DEAL-WATKINS,

Plaintiff,

vs.

LT. HANS WALTERS, *et al.*,

Defendants.

Case No. 2:13-cv-1808-GMN-VCF

REPORT & RECOMMENDATION

Before the court is Defendant's Motion to Deem Plaintiff a Vexatious Litigant (#109¹). It is unopposed. For the reasons stated below, Defendant's motion should be granted.

LEGAL STANDARD

A district court has the "inherent power to enter pre-filing orders against vexatious litigants." *Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047, 1057 (9th Cir. 2007) (citing 28 U.S.C. § 1651(a)). Because a pre-filing order implicates a litigant's right of access to the courts, the court should enter such an extreme remedy "only after a cautious review of the pertinent circumstances." *Id.* Prior to entering a pre-filing order, the court must give the litigant notice and an opportunity to be heard. *Id.* (citing *De Long v. Hennessey*, 912 F.2d 1144, 1147 (9th Cir. 1990)).

The court must set forth an adequate record for review and make "substantive findings about the frivolous or harassing nature of the plaintiff's litigation." *Id.* "An adequate record for review should include a listing of all the cases and motions that led the district court to conclude that a vexatious litigant order was needed." *Id.* at 1059 (quoting *De Long*, 912 F.2d at 1147). To determine whether the litigant's

¹ Parenthetical citations refer to the court's docket.

1 conduct is frivolous or harassing, the court evaluates “both the number and content of the filings as indicia
2 of the frivolousness of the litigant’s claims.” *Id.* (quotation omitted).

3 Finally, a pre-filing order “must be narrowly tailored to closely fit the specific vice encountered.”
4 *Id.* (quotation omitted). A pre-filing order is overbroad if it prevents the litigant from filing any suit in the
5 court, or applies to a suit against anyone when the record showed the plaintiff was litigious with respect
6 to only one group of defendants. *Id.* at 1061. Whether to enter a pre-filing order against a vexatious litigant
7 lies within the court’s discretion. *Id.* at 1056.

8 DISCUSSION

9 Byron A. Deal-Watkins commenced this action against the Las Vegas Metropolitan Police
10 Department on October 2, 2013. Deal-Watkins alleged violations of his civil rights. Because the
11 Complaint named various Officers in their official capacities, the Honorable Gloria M. Navarro, Chief
12 District Judge, granted Defendants’ Motion to Dismiss and granted Deal-Watkins leave to amend his
13 complaint. (*See* Doc. # 19.)

14 Deal-Watkins failed to amend and plead sufficient factual matter, as Rule 8 requires. Instead, he
15 abandoned his section 1983 claims and asserted fifty-five “Crimes committed by the Wrongdoers.”
16 (*See* Doc. #25, 3-8.) Deal-Watkins also used the amended complaint to express his personal philosophy
17 regarding government and law, increasing the number of pages in his Complaint from nine to thirty-four
18 pages.

19 Numerous frivolous affidavits, motions, and other documents followed. Each advanced his
20 personal philosophy, not his legal claim. Even after Deal-Watkins’ amended complaint was dismissed and
21 the deadline to file a second amended complaint had elapsed, he nonetheless continued to file frivolous
22 affidavits, motions, and other documents.
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Throughout the course of litigation, he filed the following thirty-five frivolous documents and requests for relief:

- Affidavit of Bryon A; [Deal-Watkins] (Doc. #24);
- Take Judicial Notice Rule Two Zero One; Constitutional Criminal Complaint; Opposition against Wrongdoers' Motion to Dismiss Complaint; Fraud within the Las Vegas Metropolitan Police and its agents; Willful Failure to Disclose Proper Identification of Entities; Fourth, Fifth, and Fourteenth Amendment Due Process Violation; Amendment; Affirmation in the Nature of an Affidavit (Doc. #27);
- Affidavit of Bryon A; [Deal-Watkins] re Amended Complaint (Doc. #28);
- Notice and Demand; Rescission of Signatures of Suretyship (Doc. #35);
- Objection to Proposed Discovery Plan/Scheduling Order (Doc. #43);
- Memorandum of Points and Authorities in Law; On English Grammar and Proper Spelling of the Names of Living, Breathing, Flesh, and Blood Human Men and Women; Affirmation in the Nature of an Affidavit (Doc. #44);
- Response to Klingele Minute Order (Doc. #45);
- Response to Klingele Minute Order (Doc. #46);
- Request for Judicial Notice (Doc. #47);
- Take Judicial Notice Rule Two Zero One; Failure to Comply with Freedom of Information Act (FOIA); [Federal Rules of Civil Procedure Rule 37]; to provide full and whole disclosure to be properly identified for the American People (Doc. #50);
- Notice and Demand; Amendment to Take Judicial Notice Rule Two Zero One; Next of Friend; Co-Counsel; and Resistance to Foreign Agent B.A.R. Attorney Lyssa S. Anderson Motion to Strike Take Judicial Notice Rule Two Zero One; Next of Friend; Co-Counsel; Amended to Private Counsel; Affirmation in the Nature of an Affidavit (Doc. #51);
- Notice and Demand; Oath to Support and to Defend the [United States Constitution]; and the [Nevada State Constitution]; Affirmation in the Nature of an [Affidavit] (Doc. #52);

- 1 • Notice and Demand; Oath to Support and to Defend the [United States
2 Constitution]; and the [Nevada State Constitution]; Affirmation in the Nature of an
3 [Affidavit] re A man: Hans Walters and Corporate, Dead Fictitious, Entity of the
4 Las Vegas Metropolitan Police Department (Doc. #53);
- 5 • Notice and Demand; Oath to Support and to Defend the [United States
6 Constitution]; and the [Nevada State Constitution]; Affirmation in the Nature of an
7 [Affidavit] re A man: Nicholas Sylvia and Corporate, Dead Fictitious, Entity of the
8 Las Vegas Metropolitan Police Department (Doc. #54);
- 9 • Notice and Demand; Oath to Support and to Defend the [United States
10 Constitution]; and the [Nevada State Constitution]; Affirmation in the Nature of an
11 [Affidavit] re A man: Damon Young and Corporate, Dead Fictitious, Entity of the
12 Las Vegas Metropolitan Police Department (Doc. # 55);
- 13 • Motion for Fee Compensation (Doc. #56);
- 14 • Notice and Demand; Memorandum of Law m Support of: Amicus Curiae
15 Affirmation in the Nature of an Affidavit for the Record and on the record;
16 Affirmation in the Nature of an Affidavit (Doc. #57);
- 17 • Declaration of Status of Bryon Ashton; [Deal-Watkins]: American Freeman Private
18 Citizen of the United States: American National (Doc. #58);
- 19 • Response to Supplemental Motion to Dismiss for Lack of Prosecution (Doc. #70);
- 20 • Notice by Bryon A. Deal-Watkins that the Address on the upper Right Hand Coner
21 of Document 70 is Incorrect (Doc. #71);
- 22 • Notice and Demand; Notice of Fee Compensation Amendment Affirmation in the
23 Nature of an Affidavit by Bryon A. Deal-Watkins (Doc. #73);
- 24 • Notice and Demand; Amendment; Freedom of Information (FOIA) Requiring
25 Public Records; Affirmation in the Nature of an Affidavit (Doc. #75);
- Notice and Demand; Notice to Deny Motion to Strike Fee Schedule; Signed Oaths
by Wrongdoers' to Support and to Defend the United States Constitution and the
Nevada State Constitution; Wrongdoers' and Foreign Agent in Dishonor for not
Legally and Lawfully Identifying Themselves Violates Full and Whole Disclosure
to Investigate Criminal Malfeasance of State of Nevada Employees and Foreign
Agent Lyssa S. Anderson, Esq.; Violation of Uniform Bonding Code; Affirmation
in the Nature of an Affidavit (Doc. #79);

- Notice and Demand; Notice to Deny Motion to Strike Fee Schedule; Signed Oaths by Wrongdoers' to Support and to Defend the United States Constitution and the Nevada State Constitution; Wrongdoers' and Foreign Agent in Dishonor for not Legally and Lawfully Identifying Themselves Violates Full and Whole Disclosure to Investigate Criminal Malfeasance of State of Nevada Employees and Foreign Agent Lyssa S. Anderson, Esq.; Violation of Uniform Bonding Code; Affirmation in the Nature of an Affidavit (Doc. #80);
- Notice and Demand; Definition Amendment for Freedom of Information (FOIA) Requiring Public Records; Regarding Definition of the Word "You"; Affirmation in the Nature of an Affidavit (Doc. #84);
- Notice and Demand; Evaluation Requirement as Recognized by the Nature and Intent of Federal Rules of Civil Procedure 35 and Federal Rules of Evidence 601; Affirmation in the Nature of an Affidavit (Doc. #87);
- Notice and Demand; Rescission of Signatures of Surety Amendment; Affirmation in the Nature of an Affidavit (Doc. #88);
- Notice and Demand; Hearsay Evidence to be Obliterated from the Record; Federal Rule of Civil Procedure Rule Article Eight Rule Eight Zero Two; Trinsey v. Paglario; Affirmation in the Nature of an Affidavit (Doc. #89);
- Notice and Demand; Mail Fraud; Fictitious Addressee; 39 USC 3003; Affirmation in the Nature of an Affidavit (Doc. #91);
- Notice and Demand; Federal Rules of Civil Procedure; Copyright; Fraud; Full, Complete, and Whole Disclosure; Definitions Amendment; Statements by Attorney or Witness; No Statute of Limitations on Fraud; FRCP 8 Hearsay; Affirmation in the Nature of an Affidavit (Doc. #92);
- Notice and Demand; Full, Complete, and Whole Disclosure under Penalties and Pains of Perjury; Two Party Consent Telephone Conversation; Affirmation in the Nature of an Affidavit (Doc. #98);
- Notice and Demand; Physical Photo Identification of the Living Man; Signator and Beneficiary for State Created Fictitious Person Bryon Ashton Deal-Watkins; Affirmation in the Nature of an Affidavit (Doc. #99);
- Notice and Demand; First Amendment of the United States Constitution of 1791; Sections One, Nine and Twenty of Article One Declaration of Rights of the Nevada State Constitution; Affirmation in the Nature of an Affidavit (Doc. #101);

- Notice and Demand; Physical Photo Identification of the Living Man; Signator and Beneficiary for State Created Fictitious Person Bryon Ashton Deal-Watkins; Affirmation in the Nature of an Affidavit (Doc. #102); and,
- Notice and Demand; Administrative Quo Warranto; Affirmation in the Nature of an Affidavit (Doc. # 108).

“No one, rich or poor, is entitled to abuse the judicial process.” *Tripati v. Beaman*, 878 F.2d 351, 353 (10th Cir. 1989). Deal-Watkins abused the judicial process by filing numerous frivolous, rambling, and incomprehensible documents. He acts as though the Federal Rules of Civil Procedure do not apply to him and has disregarded the court’s orders by failing to file “short and plain” pleadings and other papers. This was vexatious as a matter of law.

ACCORDINGLY, and for good cause shown,

IT IS RECOMMENDED that Byron A. Deal-Watkins be deemed a VEXATIOUS LITIGANT.

IT IS FURTHER RECOMMENDED that Byron A. Deal-Watkins be required to seek LEAVE of court before filing additional documents in this matter.

IT IS SO RECOMMENDED.

NOTICE

Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be in writing and filed with the Clerk of the Court within fourteen (14) days. The Supreme Court has held that the courts of appeal may determine that an appeal has been waived due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file objections within the specified time and (2) failure to properly address and brief the objectionable issues waives the right to appeal the District Court’s order and/or appeal factual issues from

...

1 the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley*
2 *United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

3 DATED this 18th day of March, 2015.

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6 CAM FERENBACH
7 UNITED STATES MAGISTRATE JUDGE
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